

REMARKS

Applicants respectfully request the Examiner to reconsider the present application in view of the foregoing amendments to the claims.

Status of the Claims

In the present Reply, claim 17 has been amended. Also, claims 28-29 have been added. Further, and claims 1-16, 18-19, 21 and 27 were previously canceled and claims 20 and 24-26 are canceled herein. Thus, claims 17, 22, 23, 28 and 29 are pending in the present application.

No new matter has been added by way of the amendment to claim 17 since this amendment has support in Tables 1-2 (at pages 9-10) of the present specification.

Similarly, new claims 28-29 have support in Tables 1-2 of the specification as well as page 3, lines 11-19. Thus, no new matter has been added with these new claims.

Based upon the above considerations, entry of the present amendment is respectfully requested.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw the only rejection and allow the currently pending claims.

Issues under 35 U.S.C. § 103(a)

Claims 17, 20 and 22-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over EP '802 (EP Application 0 239 802) in view of WO '262 (WO 98/17262; newly cited) as stated on pages 3-4 of the Office Action. Applicants respectfully traverse.

Applicants initially note the rejection of some claims is rendered moot due to their

cancellations herein.

With regard to claims 17, 22 and 23, Applicants appreciate the Examiner's consideration and indicated allowable subject matter as shown at pages 4-5 of the Office Action. Thus, the claim amendments as presented herein closely match the indicated allowability and thus it is believed that these amendments overcome the instant § 103(a) rejection. For example, the essential oils of juniper and rosemary oils are deleted from claims 17 and 26. Also, the weight percentages of the ingredients substantially match what the Examiner's comments in the Office Action at the bottom of page 4. These amendments are supported in the present specification at page 6, first full paragraph and Tables 1-2 (pages 9 and 10, respectively).

However, Applicants respectfully note that the present specification supports broader ranges than indicated in the Office Action.¹ For instance, the upper limit for the l-menthol is 0.8% instead of 0.5% in each of claim 17 as presented herein, wherein this upper limit is supported by Example 4 and Table 2. Further, the Examples and Tables in Applicants' specification also support a lower limit for the essential oils to be 0.01% instead of the 0.5% value (see, e.g., Example 3 in Table 1). Applicants herein summarize Examples 1-6 of the present specification (see Tables 1-2 at pages 9 and 10, respectively):

¹ Applicants' representative (Eugene Perez) contacted the Examiner on August 10, 2006 to discuss the Examples in the Table that would support the broader ranges as discussed above. However, the Examiner stated to simply file the instant Amendment and to show how the specification supports the broader ranges. Applicants respectfully request consideration in view of the comments herein.

	Example 1	Example 2	Example 3	Example 4	Example 5	Ex. 6
l-Menthol	0.3%	0.15	0.1	0.8	0.25	0.05
Peppermint oil	0.2	--	--	0.2	0.4	--
Rose oil	--	0.1	--	--	0.4	0.05
Lavender oil	--	--	0.01	0.05	--	0.1

Thus, as can be seen, the Examples in Applicants' specification support the instantly presented claim amendment to claim 17.

Further, the present specification at page 3, lines 11-19 refer to the content of l-menthol being 0.01 to 1%, preferably 0.05 to 0.5% by weight, and the content of essential oils such as peppermint oil, etc., as being 0.0001 to 1%, preferably 0.005 to 0.5% by weight.

Applicants also note the unexpected results shown in Tables 3-4 of the present specification. In particular, Examples 1, 3 and 5 (contents thereof shown in Tables 1-2) show a l-menthol content of 0.1-0.3% and an essential oil(s) content of 0.01-0.8% (0.4+0.4%). Applicants also note the description in the paragraph bridging pages 12-13 of the specification.

The allowable subject matter as indicated in the Office Action is as follows:

- l-Menthol: 0.05 to 0.5%; and
- Essential oils: 0.05 to 0.5% (peppermint oil 0.05 to 0.5%; rose oil 0.05 to 0.5%; lavender oil 0.05 to 0.5%).

But as explained above, the unexpected results in the present specification (e.g., the Examples) show broader ranges for the l-menthol (e.g., 0.05-0.8%, preferably 0.05-0.5%, more preferably 0.1-0.3%) and essential oils (e.g., 0.01-0.8%, preferably 0.01-0.5%). In this regard, Applicants respectfully refer the Examiner to the present specification, including the Examples,

and claims 17, 28 and 29 as presented herein.

Based on the above comments and amendments herein, reconsideration and allowance of all pending claims are respectfully requested.

Conclusion

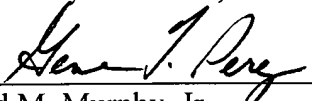
A full and complete response has been made to all issues as cited in the Office Action. Applicants have taken substantial steps in efforts to advance prosecution of the present application. Thus, Applicants respectfully request that a timely Notice of Allowance issue for the present case.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Eugene T. Perez (Reg. No. 48,501) at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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